

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOSE LEON,
TDCJ #723815,

Plaintiff,

v.

DOUG DRETKE,

Defendant.

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CIVIL ACTION NO. H-05-3385

ORDER OF DISMISSAL


The Court has received a pleading from Jose Leon, a state inmate in custody of the Texas Department of Criminal Justice - Correctional Institutions Division (collectively, “TDCJ”) at the Darrington Unit in Rosharon. The Clerk has construed the pleading as a civil rights complaint under 42 U.S.C. § 1983. However, a review of the pleading reflects that it is actually a motion intended for filing in another case that either has been filed or will be filed in the Galveston Division, if anywhere, which has jurisdiction over claims arising at the Darrington Unit. That case reportedly involves an outbreak of food poisoning that occurred at the Darrington Unit on July 2, 2003. The pleadings are a motion, with exhibits, in which the plaintiff asks to be “dropped” as a member of that class action proceeding because he objects to the way in which class counsel is handling the claims.

Because it appears that the pleadings were intended for filing in another case, the Court concludes that the above-referenced action was improvidently filed as a separate civil rights action. Accordingly, the Court **ORDERS** as follows:

1. This case is **DISMISSED WITHOUT PREJUDICE**.
2. The Clerk's Office shall promptly return all pleadings and exhibits (Docket Entry No. 1) to the plaintiff so that he may file them in the appropriate place.

The Clerk shall provide a copy of this order to the plaintiff by certified mail, return receipt requested.

SIGNED at Houston, Texas, on **October 6, 2005**.



Nancy F. Atlas
United States District Judge